

REMARKS

By this Amendment, claims 1, 2, 16, 19, 28, 32, 34, 35, 42, 48, 49, 51, 57, 60, and 61 have been amended and new claims 62-64 have been added. Accordingly, claims 1-64 are pending in this application. No new matter has been introduced by this Amendment.

In the outstanding Office Action, claim 2 was objected to because of a typographical error, and claims 1-61 were rejected under 35 U.S.C. § 103(a) as obvious in view of the combination of U.S. Patent No. 5,834,449 to Thompson et al. and U.S. Patent No. 6,007,557 to Ambrisco et al.

Regarding the objection to claim 2, the typographical error has been corrected as suggested by the Examiner. Accordingly, Applicants request that the objection to the claim be withdrawn.

Applicants respectfully traverse the rejection of independent claim 1 as obvious in view of Thompson and Ambrisco. Neither Thompson nor Ambrisco disclose or suggest, at least, a collapsible filter element including a collapsible filter body having a proximal inlet portion and a distal outlet portion, and being at least partially of a laminate construction comprising a membrane coated with a coating having a thickness from 4% to 40% of the thickness of the membrane, as recited in independent claim 1. Thompson and Ambrisco include general statements regarding filters having coatings, but do not provide any details relating to coating construction, such as the claimed coating thickness. Accordingly, since the Examiner has not provided a teaching disclosing or suggesting all of the claimed aspects, independent claim 1 should be allowed.

In the outstanding Office Action, the Examiner attempts to overcome this deficiency in Thompson and Ambrisco by stating that

In regarding to the range of percentage of the coating thickness, the range of the percentage as claimed is a typical range of thickness for coating a vascular drug delivery implant in the art for maintaining the mechanical characteristic of the implant.

Applicants respectfully disagree that the Examiner can overcome the deficiency in Thompson and Ambrisco by merely stating that a claimed aspect is "typical." It appears as if the Examiner is taking Official Notice that the claimed filter element coating thickness from 4% to 40% is known in the art. Official Notice is only proper when the facts asserted to be well known are capable of instant and unquestionable demonstration as being well-known. See M.P.E.P. section 2144.03. Applicants submit that the cited prior art lacks any disclosure recognizing the result-effective nature of filter body coating thickness, and thus there is no support for a conclusion that the claimed coating thickness is unquestionably well-known. Accordingly, Applicants traverse the assertion of Official Notice contained in the outstanding Office Action and request that the Examiner provide competent documentary evidence in the next Office Action if the rejection is to be maintained. *Id.* at 2144.03(C).

Claims 2-31 and 48-62 all depend from independent claim 1, and are therefore allowable for at least the same reasons stated above that claim 1 is allowable. In addition, each of these dependent claims recites unique combinations that are neither taught nor suggested by the cited art, and therefore each are also separately patentable.

With respect to independent claim 32, Thompson and Ambrisco fail to disclose or suggest, at least, the claimed collapsible filter element including a filter body having a proximal inlet portion and a distal outlet portion, and the filter body having regions of at least one of varying hardness and stiffness resulting at least in part from a laminate construction of at least one of the regions. As noted above, Thompson and Ambrisco include general comments regarding filters having coatings, but do not provide any details relating to filter hardness, stiffness or laminate construction. Accordingly, since the cited art fails to disclose or suggest all of the claimed aspects, independent claim 32 should be allowed.

Claims 33-41 and 63 all depend from independent claim 32, and are therefore allowable for at least the same reasons stated above that claim 32 is allowable. In addition, each of these dependent claims recites unique combinations that are neither taught nor suggested by the cited art, and therefore each are also separately patentable.

Addressing independent claim 42, again neither Thompson nor Ambrisco disclose or suggest a collapsible filter element including, at least, a filter body having a hydrophilic coating. Thompson and Ambrisco include general statements regarding filters having coatings, but do not disclose or suggest the use of a hydrophilic coating. Accordingly, for at least this reason, independent claim 42 should be allowed.

Claims 43-47 and 64 all depend from independent claim 42, and are therefore allowable for at least the same reasons stated above that claim 42 is allowable. In addition, each of these dependent claims recites unique combinations that are neither taught nor suggested by the cited art, and therefore each is also separately patentable.

The Office Action contains characterizations of the claims and the related art with which Applicants do not necessarily agree. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.


The Examiner is invited to contact the undersigned at (202) 408-4469 if the Examiner believes that a discussion would further the prosecution of this application.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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